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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/560,395

12/13/2005

David Macinnes

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04/17/2009

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EXAMINER

FIDEI, DAVID

ART UNIT

PAPER NUMBER

3728

MAIL DATE

DELIVERY MODE

04/17/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/560,395	Applicant(s) MACINNES ET AL.	
	Examiner David T. Fidei	Art Unit 3728	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 February 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 21-51 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 21-51 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>2/6/2009, 4/8/2009</u> . | 6) <input type="checkbox"/> Other: _____ |

Specification

1. Claim 22 is objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. The lower limit of each of the elements recited in claim 22 is 0 which does not include the element recited. Therefore, the claim fails to further limit the subject matter from which it depends.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 21-26, 30-35 and 37-47 are rejected under 35 U.S.C. 102(b) as being anticipated by WO 00/36006. A biodegradable polymer is disclosed comprising: from 8 to 95% by weight of a modified starch preferably starch modified to include an hydroxyalkyl C2-6 group or modified by reaction with an anhydride of a dicarboxylic acid; from 0.5 to 20% by weight of a water soluble polymer selected from polyesters, polyvinylacetate, polyvinyl alcohol and copolymers of ethylene and vinylalcohol which have a melting point compatible with the molten state of the starch components, see claim 1 of WO 00/36006 and page 3, lines 4-15.

As to claims 23-26, 35 and 44-47 rigid packaging containers that are sealed to enclose a product are contemplated on page 1, lines 7-9 and page 3, lines 16-19.

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As to claims 30-33, the packaging is recited for use in at least partial contact with an aqueous medium which is a statement of intended use that does not distinguish the product over WO 00/36006. A statement of intended use, which is merely recited in the preamble does not limit the recitations of structure which follow the preamble to the indicated use. In re Tuominen, 671 F.2d 1359 (C.C.P.A. 1982). A statement of intended use does not qualify or distinguish the structure claimed over the prior art. In re Sinex, 309 F.2d 488 (C.C.P.A. 1962).

As to claims 37 and 38, working the mixture and forming a melt within the temperature range of 130°C to 160°C; and reducing the temperature and further working the mixture and then forming the packaging is contemplated on page 2, lines 18-22.

As to claims 39-43, thermoforming, extruding, injection molding and blow molding are well known techniques for forming a package.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.

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4. Considering objective evidence present in the application indicating obviousness or nonobviousness.
6. Claims 21-46 and 48-51 are rejected under 35 U.S.C. 103(a) as being unpatentable over WO 00/36006 in view of Duffield et al (US 2008/0073239). WO 00/36006 discloses a packaging comprising: from 8 to 95% by weight of a modified starch preferably starch modified to include an hydroxyalkyl C2-6 group or modified by reaction with an anhydride of a dicarboxylic acid; from 0.5 to 20% by weight of a water soluble polymer selected from polyesters, polyvinylacetate, polyvinyl alcohol and copolymers of ethylene and vinylalcohol which have a melting point compatible with the molten state of the starch components.
7. The difference between the claims 27-29 and WO 00/36006 resides in the product is a product used in the vicinity of aqueous medium, the product is a cleaning product and the product is a laundry, kitchen or bathroom cleaning product. Duffield et al figure 5 discloses a perspective view of an embodiment filled washing composition and closed by a closure part, see paragraph [0022]. It would have been obvious to one of ordinary skill in the art to modify the packaging of WO 00/36006 by constructing a container having a product as disclosed by Duffield et al figure 5, in order to form a package for cleaning composition.

As to claims 23-26 and 44-46, figure 5 of Duffield et al discloses a rigid packaging container that is sealed to enclose a product.

As to claims 30-33 and 36, the packaging is for use in at least partial contact with an aqueous medium, see paragraph [0048] of Duffield et al.

As to claims 37 and 38, working the mixture and forming a melt within the temperature range of 130°C to 160°C; and reducing the temperature and further working the mixture and then forming the packaging is contemplated on page 2, lines 18-22 of WO 00/36006.

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As to claims 39-43, thermoforming, extruding, injection molding and blow molding are well known techniques for forming a package.

As to claims 48-50 Duffield et al manifestly discloses a process for the manufacture of a packaged product comprising the steps of: at least partially filling the packaging with the product; and c) closing the packaging.

As to claim 51, Duffield et al figure 5 is considered to form a blister defined by the container part with a backing sheet defined by the closure part.

Conclusion

8. Since this Information Disclosure Statement is filed more than three months after the U.S. filing date, OR more than three months after the date of entry of the national stage of a PCT application, AND after the mailing date of the first Office Action on the merits, whichever occurs first, but before the mailing date of a Final Office Action or Notice of Allowance (37 CFR 1.97(c)) this action is non-final.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to David T. Fidei whose telephone number is (571) 272-4553. The examiner can normally be reached on Monday - Friday 8:30 am - 4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mickey Yu can be reached on (571) 272-4562. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/David T. Fidei/

Primary Examiner, Art Unit 3728